

IN THE MAGISTRATES' COURT OF RIVERS STATE
IN THE PORT HARCOURT MAGISTERIAL DISTRICT
HOLDEN AT PORTHARCOURT BEFORE HIS WORSHIP, G.C.AMADI ESQ.
SITTING AT CHIEF MAGISTRATE COURT 8, ON THE 16TH OCTOBER, 2024

SUIT NO. PMC /SCC/240/2024

MR. IGWE NYEMAHAME

}

CLAIMANT

AND

- 1. KENNETH B. ADOO**
- 2. GODSON CHIKE**

}

DEFENDANTS

JUDGMENT

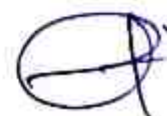
This is the final judgment in this suit wherein the claim before the court, dated and filed on the 29th September, 2024 is for:

1. An order of this Court compelling the defendants to refund the Claimant, the sum of N4,450,000 for being outstanding sum accrued and interest respectively on loan advanced to the Claimant.
2. An order of this Court compelling the defendants to pay the Claimant, the sum of N100,000 as cost.

In proof of his case, the Claimant called one witness and the defendants never appeared in this matter.

On the 11th of October, 2024, an application to enter plea of not liable for the defendants by the Claimant counsel was granted and hearing notice was ordered to be served on the defendants and the matter was set down for hearing.

On the 14th day of October, 2024, the Claimant was present and the defendants were absent. On this date, the CW1, who is also the Claimant on record adopted his evidence on oath wherein he deposed that the 1st defendant met him to grant him some loan which he did and that the 2nd Defendant is a Surety of the 1st defendant and is resident at No. 4 Orlu Street, off Stadium road, Port-Harcourt, Rivers State of Nigeria, which is within the jurisdiction of this Honourable Court. That the 1st Defendant approached him in January 2023 wherein he offered to obtain a loan in the sum of N500,000.00 (Five Hundred Thousand Naira) with a fervent undertaking to pay back in line with the terms and



conditions contained in a written Agreement dated 12/1/2023. That Based on the 1st defendant's representation and earnest plea, he disbursed the sum of N500,000.00 to the 1st Defendant and we duly executed an Agreement which terms and conditions are contained in the written agreement dated 12/1/2023. That this money was given to the 1st defendant to be repaid in three (3) months from the date of grant at an interest of 25% assessed at N125,000.00 per month. That on the 21/1/2023, the 1st defendant, yet again, sought and obtained another sum of N450,000.00 as loan from me to be repayable within three (3) months at an agreed interest of 25% per month, assessed at N12,500 (one Hundred and Twenty Five Thousand Naira) per month amongst other terms as contained in the another agreement executed between the 1st defendant and himself

That these sums were given to the 1st defendant at different times and handed an along original copy of the deed of conveyance in respect of a parcel of land known as 'Akara Oka' That the 1st Defendant at all material time took benefit of the funds and was obliged to repay the loans granted with the accrued interests as agreed. However, that at the

expiration of due dates the 1st defendant willfully refused to defray the outstanding loan and accrued interest, rather he devised all form of excuses to continue in his indebtedness despite taking benefits of the amounts.

That the 1st defendant was irregular in the repayment of the money but only paid little amount to service part of the interest. That the 1st defendant only paid a total sum of N1,250,000 (One Million Two Hundred and Fifty Thousand Naira) as part of the interest for the two loans as follows- sometime in the month of April, 2024 1st defendant paid him N200,000.00 and later that same April, 2024 he paid N100,000.00. That on the 22nd of August, and N950,000.00. All these happened after the due dates and interests accumulation.

That the 1st defendant has continued to owe him so much that both loans and interests are now outstanding for twenty (20) months (excluding the already paid interests aforesaid) before the filing of this suit. That for the first loan of N500,000.00 interest of 25% at N125,000.00 per month for the outstanding 20 months as at August, 2024 amounts to N2,500,000.00 (Two Million Five Hundred Thousand Naira). Hence the Principal of N500,000.00 and the accrued interest of N2,500.00 representing the twenty months is N3,000,000.00 (Three Million Naira)

Testifying further, the CW1 stated that for the 2nd loan of N450,000.00 ,the interest of 25% at N12,500.00 per month for the outstanding 20 months as at August, 2024 amounts to N2,250,000.00 (Two Million Five Hundred Thousand Naira). Hence the Principal of N450,000.00 and the accrued interest of N2,250,000.00 representing the twenty months is N2,700,000.00 (Two Million Seven Hundred Thousand Naira).

That adding the sum of N3,000,000.00 being the principal and accrued interest on the first loan agreement and the sum of N2,700,000.00 representing the principal and interest for The 2nd agreement amounts to N5,700,000.00 (Five Million Seven Hundred Thousand Naira). That subtracting N1,250,000 (One Million Two Hundred and Fifty Thousand



Naira) being part of the interest earlier paid by the 1st defendant will entitle me to the sum of N4,450,000.00 (Four Million Four Hundred and Fifty Thousand Naira) now outstanding and unpaid by the 1st defendant.

Further, the CW1 testified on oath that the 2nd defendant acted as a surety who guaranteed the repayment of the 1st defendant's indebtedness in both the Exhibits 1 and 2 and which are overdue and still outstanding till date. That the 2nd defendant is obliged to ensure the repayment of the debts. That I verily believe that except this Honourable Court intervenes, the defendants will continue to delay and or refuse to repay the indebtedness to me. That his business have greatly suffered and is still suffering greater hardship and losses as a result of the action of the defendant.

The CW1 identifies the two different loan agreements and a deed of conveyance and the Claimant counsel applies to tender the documents in evidence. In the absence of any objection, the document were admitted in evidence and marked as Exhibits A, B, and C respectively

At the close of the evidence of CW1, the Claimant announced the close of their case. Prior to that ,after sighting the hearing notices dated 30th September, 2024 and affidavit of service dated 30th September, 2024 and in line with Article 9 of the Small Claims Court Practice Direction,2024; the Court having satisfied herself that the defendants have been served and have failed or refused or neglected to appear and defend the claim against him, the defendants were foreclosed from cross examining the CW1 and thereafter from defending the claim and the matter was adjourned for judgment.

A total of three (3) exhibits were tendered in evidence in the course of the trial.

That said, I will proceed to consider the case of the parties in the light of the relevant laws. I have noted the essence of the claim have also taken cognizance of the evidence before the court. I have read all the exhibits and I have couched a lone issue for determination and that is whether the Claimant has discharged the burden of proving his claim before the Court.

Suffice is to say that before the court adjourned the matter for hearing and heard the matter, the court always satisfied itself that:

1. The processes have been duly served on the defendant
2. That the time before the date of service and the date of hearing was sufficient for the defendant to have appeared had he intended to do so.

From the evidence of the Claimant and the claim before the Court as enumerated above in addition to the corroboration as in Exhibits A-C before the Court.

Suffice is to note at this point that none of the facts stated by the claimant's witness was controverted in evidence or denied by the defendant and so will be deemed by this court as admitted. The law is that facts admitted need not be proved by evidence. Please refer to the



case of Ayoke V. Bello (1992)10 NWLR (Pt 218) pg 380 Ratio 2; O.A.A Cooperative Society Vs. NACP Ltd (1999) 2NWLR (Pt 590) Pg 234, Ratio 4 to the effect that what is not denied is deemed admitted and what is admitted need not be proved.

On the undisputed and clear evidence before the court, the court will hold that the claimant has discharged the burden of proving that he is entitled to his claim before the Court as against the 1st and 2nd defendant.

IT IS THUS ADJUDGED that the 1st and 2nd defendants to refund the Claimant refund the Claimant, the sum of N4,450,000 (Four Million, Four Hundred And Fifty Thousand Naira)only for being outstanding sum accrued and interest respectively on loan advanced to the defendants.

AND, IT IS ALSO ADJUDGED that the 1st and 2nd defendants to pay the Claimant, the sum of N100,000 (One Hundred Thousand Naira) as cost.

AND IT IS ORDERED that the 1st and the 2nd defendants to pay the Claimant, the aforesaid sum of N4,450,000 (Four Million, Four Hundred And Fifty Thousand Naira)only for being outstanding sum accrued and interest respectively on loan advanced to the defendant and N100, 000 (One Hundred Thousand Naira) as cumulating to the total sum of N4,550,000.00(Four Million, Five Hundred And Fifty Thousand Hundred Thousand Naira Only)

AND IT IS FURTHER ORDERED that the 1st and 2nd defendants do pay to the claimant the total sum of N4,550,000.00(Four Million, Five Hundred And Fifty Thousand Naira Only) above mentioned with immediate effect.

TAKE NOTICE –That if payment is not made as above ordered, a warrant or warrants may issue requiring an officer of the court to levy the sum above mentioned, to the claimant together with further costs.



G.CHINYERE AMADI. ESQ.
CHIEF MAGISTRATE G.D.I

